

Patient-Rights Legislation to Be Pushed By Clinton for Congressional Passage

By LAURIE MCGINLEY

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — In an action sure to ignite a political brouhaha, President Clinton today plans to ask Congress to pass legislation to mandate broad new patient rights recommended yesterday by an advisory panel on health care.

"The president believes strongly that these consumer protections are necessary to increase the confidence of the public in our health-care delivery system," said Christopher Jennings, a top White House domestic policy aide, referring to a "Consumer Bill of Rights and Responsibilities" to be formally presented to Mr. Clinton today.

But big employers and much of the managed-care industry, as well as the Republican congressional leadership, are opposed to federal requirements, which they say will drive up health-care costs.

Mr. Clinton is expected to ask private health plans to adopt the consumer protections immediately, ahead of legislation. But the administration expects that some plans won't do so, and federal legislation is the only way to ensure that the protections are fully implemented.

Aides said that among the most significant protections likely to be included in legislation are giving consumers the right to appeal the denial of services to a panel of independent experts, and guaranteeing chronically ill patients direct access to specialists.

The president also is expected to direct federal agencies to explore what regulatory actions can be taken to incorporate the provisions into programs such as Medicare, the federal health program for the elderly, and Medicaid, the federal-state program for the poor and disabled.

Even before the president's announcement, the battlelines were being drawn on an issue that is likely to take center stage on Capitol Hill next year. Rep. Bill Archer (R., Texas), chairman of the House Ways and Means Committee, yesterday expressed skepticism about translating the bill of rights into federal law. "Politicians need to act with care, because Washington's willingness to solve everyone's problems has often led to unintended, costly consequences," he said. Other GOP leaders have expressed staunch opposition to federal legislation to reform managed care.

Several employer groups and managed-care officials yesterday also reiterated their opposition to federal action. The bill of rights should be implemented through

market forces and not "be a pretext for heavy-handed government regulation," said James Klein, president of the Association of Private Pension and Welfare Plans, which represents big companies.

But consumer groups and labor unions applauded the idea of federally enforced standards. "This really hits at the heart of what's important to people around the country," said Gail Shearer, director of health-policy analysis for the Washington office of Consumers Union.

The 34-member panel — made up of consumer, managed-care, union and employer representatives — didn't take a stand on how the recommendations should be implemented and probably won't until early next year. But the White House decided it needed to announce the president's plans now to counter increasingly vocal attacks by some opponents.

Some of the other consumer protections the commission recommended are: a choice of health-care providers wide enough to ensure high-quality care; reimbursement for emergency services if a "prudent layperson" believes the situation is an emergency, even if it turns out not to be; and confidentiality of medical records.

A report prepared for the panel found that the costs of implementing the two most significant provisions — those dealing with external appeals and information disclosure by health plans about how they do business and the doctors in their networks — were minimal. Yesterday, the health-care quality commission approved the bill of rights only after a last-minute attack by one panel member. Diane Graham, the chief executive officer of Stratco Inc., an engineering firm in Leawood, Kan., warned that the recommendations would eventually be translated into federal mandates that would drive up insurance costs for small businesses and result in a decline in the number of workers covered.

Jack Faris, president of the National Federation of Independent Business, praised Ms. Graham for "doing the right thing for small-business owners." But Stephen Wiggins, chairman of Oxford Health Plans Inc., a New York-based health-maintenance organization and a member of the commission, reacted angrily, saying it was unfair for someone who hadn't participated much in the discussions to make a "job at the eleventh hour." In addition, he said he supported federal legislation to implement certain aspects of the proposal.

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THURSDAY, NOVEMBER 20, 1997

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PRESERVATION

Panel's 'bill of rights' lays out 7 consumer health-care provisos

By Steven Findlay
USA TODAY

A presidential advisory commission issued a health care "bill of rights" Wednesday that is to be either voluntarily adopted by health insurers and managed care plans, or written into law by states or the federal government over the next year.

President Clinton is expected to endorse the recommendations today.

He appointed the 34-member panel last March and charged it with issuing the bill of rights this year. A second report is due in March, 1998.

The commission, which included representatives from the health care and insurance industries, consumer groups, unions and government, bogged down in disputes recently. It reached consensus Wednesday after a lengthy and testy debate.

One member, Diane Graham, a small-business owner from Arizona, declined to support the panel's final advice. She said it would boost costs too much for small businesses.

The panel's seven rights:

► **Information disclosure:** "Consumers have the right to receive accurate, easily understood information and assistance in making informed health-care decisions about their health plans, providers and facilities."

► **Choice of providers and plans:** "Consumers have the right to a choice of health care providers that is sufficient to assure access to appropriate high-quality health care."

► **Access to emergency services:** "Consumers have the right to access emergency health care services when and where the need arises. Health plans should provide payment when a consumer presents to an emergency department with acute symptoms of sufficient severity — including severe pain — such that a 'prudent layperson' could reasonably expect the absence of medical attention to result in placing the consumer's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part."

► **Participation in treatment decisions:** "Consumers have the right and responsibility to fully participate in all decisions related to their medical care. Consumers who are unable to fully participate in treatment decisions have the right to be represented by parents, guardians, family members, or other conservators."

► **Respect and nondiscrimination:** "Consumers have the right to considerate, respectful care from all members of the health care industry at all times and under all circumstances. An environment of mutual respect is essential to maintain a quality health care system."

"Consumers must not be discriminated against in the delivery of health care services consistent with the benefits covered in their policy, or as required by law, based on race, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment."

mation, or source of payment.

"Consumers who are eligible for coverage under the terms and conditions of a health plan or program, or as required by law, must not be discriminated against in marketing and enrollment practices based on race, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment."

► **Confidentiality of health information:** "Consumers have the right to communicate with health care providers in confidence and to have the confidentiality of their individually identifiable health care information protected. Consumers also have the right to review and copy their own medical records and request amendments to their records."

► **Complaints and appeals:** "All consumers have the right to a fair and efficient process for resolving differences with their health plans, health care providers, and the institutions that serve them, including a rigorous system of internal review and an independent system of external review."

► Clinton to push bill, 1A

Space shuttle, on a roll, makes its way into orbit

The Associated Press

CAPE CANAVERAL, Fla. — Space shuttle Columbia soared into orbit with an unprecedented 180-degree flip Wednesday, beginning its two-week science mission right on the mark.

"Have an international Thanksgiving and may the roll go your way," a launch controller told the U.S., Japanese and Ukrainian crew of six just moments before the mid-afternoon liftoff.

It was the sixth time this year that NASA sent up a shuttle at the exact moment on the exact day as planned.

In a space shuttle first, Columbia did a roll while heading toward orbit at more than 8,300 mph.

The shuttle twisted to the left at the command of on-board computers and, for 40 seconds, kept turning until it had rolled the full 180 degrees, a half-circle.

The roll was designed to put the shuttle in radio contact with a relay satellite. NASA hopes the maneuver will allow it to close a tracking station on Bermuda and save about \$5 million per year.

During Columbia's flight, due to end Dec. 5, the astro-

RS DAY, NOVEMBER 20, 1997 • USA TODAY

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Clinton to Call for Health-Plan Regulation

A 'Bill of Rights' for Consumers Portends a Bitter Fight in Congress

By ROBERT PEAR

WASHINGTON, Nov. 19 — President Clinton wants Congress to protect consumers with a "bill of rights" setting detailed Federal standards for all health plans and health insurance companies in the United States, the White House said tonight.

White House officials said Mr. Clinton would announce his support for such legislation on Thursday in accepting proposals from a 34-member Presidential advisory commission.

The commission agreed on the proposals today, but, in a move that foreshadows bitter fights in Congress, one member of the panel denounced them, saying they would impose intolerable new costs on small businesses.

The White House had been hoping for unanimous recommendations that would give political cover to Mr. Clinton as he proposes extensive new regulation of private health plans. But the one dissenting member of the panel, S. Diane Graham, a small-business owner from Arizona, dashed those hopes at the last minute, just as the panel completed work on its recommendations.

Under the proposals, consumers could appeal to an independent arbitrator any decisions denying care or coverage and would be entitled to a wide range of data needed to evaluate the quality of services provided by doctors, hospitals and health plans.

Ms. Graham said the new rights would amount to "enforceable entitlements" and would increase health care costs, making it more difficult for small businesses to provide health benefits to employees.

Ms. Graham, who is chairwoman of Stratco Inc., an engineering company, said the panel had not fully analyzed the costs of the rights it was recommending.

"The burden of rising premium rates," she said, "falls hardest on the small employer."

Other panel members, including executives from the GTE Corporation and from a large Blue Cross and Blue Shield plan, also expressed concerns about cost, but ultimately acquiesced in the recommendations. J. Randall MacDonald, executive vice president of GTE, estimated that the proposals would increase his company's health care costs by 1 to 3 percent.

Chris Jennings, a White House aide, said the President would take

three steps on Thursday:

¶Mr. Clinton will challenge health plans to comply immediately with all the proposals, thus allowing consumers to obtain more information about their doctors and to appeal denials of care.

¶He will call on Congress to enact the proposals next year.

¶He will order Federal agencies to make sure that all the proposals are guaranteed to beneficiaries of Federal health programs, including military personnel, Federal civilian employees and the 70 million people covered by Medicare or Medicaid.

The panel, the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, did not say who should en-

Déjà vu all over again: a new health-care war shapes up.

force the new standards and did not specifically call at this time for Federal legislation embodying them.

Many members of Congress, from both parties, are eager to enact the proposals. But Republican leaders like Senator Trent Lott of Mississippi and Representative Dick Armey of Texas strenuously oppose new Federal mandates.

Representative Bill Thomas of California, a Republican who is chairman of the House Ways and Means Subcommittee on Health, assailed the proposals tonight.

"When these folks talk about a patients' bill of rights, it's politics," Mr. Thomas said. "What they should do is take their lead from the First Amendment of the real Bill of Rights, which opens by saying, 'Congress shall make no law...'"

In a memorandum to Congressional Republicans on Nov. 3, Mr. Armey said Mr. Clinton was trying to achieve in incremental steps what he failed to achieve in 1993-94 with his proposal for an overhaul of the nation's health care system.

"Clinton Care 2 will include all the essential regulatory features of Clinton Care 1, only repackaged under the rubric of 'minimum national standards' instead of 'universal coverage,'" Mr. Armey said.

In a preamble to the "bill of rights," the commission today de-

clared that high-quality health care should be "available to all Americans, regardless of ability to pay." With surprising ease, the panel thereby endorsed universal access to health care as a goal, though not a legally enforceable right. But it did not say how such care ought to be financed.

Otherwise, the commission, in recommendations that had largely been already reported, said consumers ought to have a right to detailed information on the quality of health plans, doctors and hospitals. Moreover, it said, a patient with complex or serious medical problems should have direct access to specialists, without necessarily having to go through the frequently time-consuming process of obtaining referrals from primary care doctors.

In addition, the panel said consumers should have a right to emergency medical services "when and where the need arises," in any situation that would be perceived as an emergency by a "prudent lay person."

The commission's proposals would also guarantee the privacy of medical records, with a few narrow exceptions, and would prohibit certain types of discrimination in the sale of health insurance: consumers who are eligible for coverage under the terms of a health plan or program, the commission said, must not suffer discrimination because of race, ethnic origin, sex, age, mental or physical disability, sexual orientation or genetic information.

The panel, headed by Donna E. Shalala, the Secretary of Health and Human Services, and Labor Secretary Alexis Herman, said some consumers needed assistance in choosing health plans and navigating the health care system. It said ombudsmen and consumer assistance programs could be helpful, but it did not specify such assistance as a right.

The Lewin Group, a health care consulting company, estimated the costs of two measures proposed by the commission. It said health plans would incur costs of 59 cents to \$2.17 a month for each insured person because of the requirement to collect and disclose information about the quality of care. And it said health plans could provide patients new rights of appeal for a maximum of 7 cents a month for each person enrolled.

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THURSDAY, NOVEMBER 20, 1997

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Stock turmoil a boon to U.S. mortgage rates

By Christine Dugas
and James Kim
USA TODAY

A1

NEW YORK — Long-term bond yields are the lowest they've been since February 1996, driving fixed-rate mortgages to two-year lows.

Short-term rates have risen but that has been good for savers, pushing up rates on money market funds and certificates of deposit.

Wednesday, the yield on 30-

year Treasury bonds fell to 6.03% from 6.07% Tuesday.

Last week, 30-year fixed-rate mortgages averaged 7.23%, according to Freddie Mac. The last time those rates fell below 7% was February 1996, when they averaged 6.94%.

"This is great news for families who are in the market for a new mortgage, either because they want to buy a home or refinance a mortgage," says Frank Nothaft, economist at Freddie Mac.

Experts predict mortgage rates won't rise until next year.

Rates are down because of the recent global stock market turmoil.

Skittish investors have poured money into U.S. Treasury bonds. And that strong demand has pushed bond prices up, and yields down.

"There is a global flight to quality. U.S. Treasury bonds have benefited the most," says David Jones, chief economist at Aubrey G. Langston & Co.

He predicts yields will continue to slide as stock markets seesaw.

Wednesday's interest rate drop helped power the Dow Jones industrial average to a 74-point rise.

But because short-term rates are up slightly, five-year CD yields averaged 5.58% this week, according to *Bank Rate Monitor*, up from 5.54% Jan. 1.

► Korea asks for help, 1B
► U.S. market gains, 1,3B

Stick margarine ups heart risk

A sweeping study out today indicates that stick margarine and any foods made with hardened vegetable oils raise the risk of heart disease by as much as one-third — and pose more of a risk than saturated fats. Story, 1D.

Clinton to push for health care 'bill of rights'

By Steven Findlay
USA TODAY

A1

WASHINGTON — President Clinton will call today for federal legislation guaranteeing all Americans a set of basic health care rights and consumer protections.

The president will endorse a health care "bill of rights" adopted Wednesday by a 34-

member advisory commission he appointed in March.

Among the key rights:

► To "accurate, easily understood" information about health plans, facilities and providers.

► To emergency care covered by insurance if a "prudent layperson" would agree the visit was warranted.

► To appeal if a health insur-

er or managed care plan denies care.

Clinton will ask that the commission's recommendations be implemented immediately, on a voluntary basis, by health insurers and managed care plans, the White House said.

Clinton then hopes to work with Congress early next year to shape federal legislation to enforce the rights and protec-

tions, said Chris Jennings, Clinton's health policy adviser.

Clinton today also will order all federal departments to review their health benefit plans and comply with the commission's recommendations by the end of next year, Jennings said.

Republicans in Congress and business groups attacked the proposals. "Few of us believe that health care quality can be

improved by ... more government rules and regulations, said Rep. Bill Thomas, R-Calif.

"Federal mandates would add too much cost at a time when small business is struggling to provide insurance to employees," said Neil Trautwein of the U.S. Chamber of Commerce.

► The bill of rights, 2A

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THURSDAY, NOVEMBER 20, 1997 • USA TODAY

Clinton to Propose Patients' Rights Bill

Commission Outlines Health Care Protections

By Amy Goldstein
Washington Post Staff Writer

A1

President Clinton will propose federal legislation today to create a broad new set of government standards aimed at guaranteeing Americans better care and more clout in the nation's changing health care system, according to White House officials.

The officials said that Clinton plans to give his full endorsement to a health care "bill of rights" that would assure insured patients easier access to treatment, more information to help them select health plans and doctors, and new ways to appeal if they are dissatisfied with their care.

The president plans to call on every U.S. health insurer to adopt

these patient protections, which were proposed by an advisory commission that completed work on the plan yesterday. Clinton will also instruct the federal agencies that oversee health insurance to spend three months studying which of the safeguards can be enforced under existing law. But White House officials said the president has concluded that many facets of the commission's proposal will require Congress to act.

By swiftly embracing the work of the commission he appointed earlier this year—and by advocating new federal standards to enforce it—Clinton is making his largest and most controversial foray into the health care issue since his attempt at fund-

See CARE, A4, Col. 1

CARE, From A1

mental health reforms was rejected by Congress three years ago.

His decision comes amid growing evidence that the American public is wary of the changes wrought by the proliferation of health maintenance organizations and other kinds of "managed care," which try to curb medical costs by limiting how much and what kind of care patients may receive. Though the idea of improving the quality of medical care has wide political support, there are intense disagreements over how large a role the government should play.

Key congressional Republicans, the health insurance lobby, and major business organizations already have vowed to block new health care legislation, contending that improvements should be trusted to the private marketplace.

"I commend the commission for putting its finger on the pulse of the things that are wrong with health care today, but I question whether it has prescribed the correct treatment," said House Ways and Means Committee Chairman Bill Archer, (R-Tex.). "Politicians need to act with care, because Washington's willingness to solve everyone's problems has often led to unintended, costly consequences."

Clinton's decision to push for broad patient protections is not his first return to the topic of health since the rejection of a major initiative of his first term that attempted to rearrange the health care system and make care universally available. But until now, his subsequent efforts have affected much narrower segments of patients and have enjoyed greater bipartisan support.

They include the so-called Kassebaum-Kennedy law, enacted last year to make it easier for people to get insurance after they change jobs or become

sick. This year, the White House and Congress agreed to a \$24 billion initiative to provide more health coverage for uninsured children, as well as changes in Medicare intended to cut costs and encourage more elderly patients to enter managed care.

Clinton aides said yesterday that they viewed health care as a top Democratic priority for 1998 because it could define differences with Republicans before the mid-term congressional elections. "Some in their leadership want to have a jihad because that's what their financial backers are calling for," said Rahm Emanuel, a senior adviser to the president. "We think this is a way of pursuing health care reform."

Another White House official said that, despite the opposition of certain GOP leaders, there are signs the "bill of rights" could gain widespread support because more than 80 Republicans are co-sponsors of another health quality measure, introduced by Rep. Charles Whitlow Norwood Jr. (R-Ga.) that would create protections beyond those envisioned by the commission.

Yesterday, as the advisory commission finished haggling over its recommendations, the focus began to shift toward a question that is likely to prove significant as the dispute moves to Capital Hill: How much will these protections cost?

An analysis prepared by the health consulting firm The Lewin Group, calculated that the proposed expansion of consumer information to be pushed by Clinton would add an estimated 84-cents per patient to health care costs, if phased in over several years. Creating an outside appeals process for dissatisfied patients would add 3 to 7 cents per patient.

The contentiousness of the cost issue was evident even within the

34-member commission, made up of representatives of insurance companies, consumers, health care providers and employers.

The group fell short of its goal of turning in a unanimous proposal because one member, Diane Graham, chief executive of a small Kansas engineering firm, announced at the

end of the deliberations that she could not support it. "We are setting in motion a process that will end up driving up costs ... and denying millions of Americans their health care," Graham said.

Staff writer Peter Baker contributed to this report.

The Washington Post

THURSDAY, NOVEMBER 20, 1997

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PRESERVATION

Quality File

DEMOCRATS UNITE IN CALL FOR FEDERAL LEGISLATION TO MAKE CONSUMER BILL OF RIGHTS REAL FOR ALL AMERICANS

January 14, 1998

Today, the President, the Vice President, and the Congressional Democratic Leadership (Senator Daschle and Congressman Gephardt) called on Congress to enact Federally enforceable consumer protections before it adjourns this fall.

The Democratic Leaders All Agree That "Consumer Bill of Rights" Legislation Should Include a Range of Protections Including:

- **Guaranteed Access To Needed Health Care Providers** to ensure that patients are provided appropriate high quality care. This right includes giving women access to qualified providers to cover routine women's health services, providing consumers with complex or serious medical conditions with access to specialists, and ensuring that chronically ill people are protected against sudden changes in provider participation in health plans that threaten continuity of care.
- **Access to Emergency Services** when and where the need arises. This provision requires health plans to cover these services in situations where a "prudent layperson" could reasonably expect that the absence of care could place their health in serious jeopardy.
- **Confidentiality of Medical Records** to ensure that individually identifiable medical information is not disseminated and provide consumers the right to review, copy, and request amendments to their own medical records.
- **Grievance and Appeals Processes** for consumers to resolve their differences with their health plans and health care providers -- including an internal and external appeals process.

The Democratic Leaders Underscored Their Belief That These Rights Should Be Protected By Law. To make these rights real for all Americans, the Democratic Leaders stated that these protections would require Federal legislation that would establish enforceable rights for consumers. Although many states have passed legislation in this area, this patchwork of protections is not sufficient, particularly because tens of millions Americans are covered by plans which are not governed by state law.

Democratic Leaders Welcome Republicans Who Share This Vision To Work With Them To Pass Legislation This Year. Many Republicans recognize the need for national, federally-enforceable consumer protections. In fact, legislation sponsored by Congressman Norwood has the support of nearly 100 Republican House Members. In addition, Democrats and Republicans in state legislatures across the country have passed consumer rights legislation into law. Forty-three states have enacted into law one or more of the basic protections outlined above, and over 25 of these states have Republican Governors.

**Patient Bill of Rights Press Conference
with Democratic Members
1/14/98**

MOC acknowledgements

Senator Tom Daschle (D-SD)

Senator Byron Dorgan (D-ND)

Congressman Dick Gephardt (D-MO)

Congressman Vic Fazio (D-CA)

Congressman Bob Clement (D-TN)

Congresswoman Pat Danner (D-MO)

Congressman Jim Davis (D-FL)

Congresswoman Diana DeGette (D-CO)

Congressman John Dingell (D-MI)

Congressman Lloyd Doggett (D-TX)

Congressman Barney Frank (D-MA)

Congressman Ed Markey (D-MA)

Congressman Mike McIntyre (D-NC)

Congresswoman Nancy Pelosi (D-CA)

Congressman Martin Sabo (D-MN)

Congressman Pete Stark (D-CA)

Congresswoman Ellen Tauscher (D-CA)

Congressman Henry Waxman (D-CA)

Congressman Robert Wexler (D-FL)

Congressman Bob Weygand (D-RI)

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Record Type: Record

To: Paul E. Begala/WHO/EOP, Christopher C. Jennings/OPD/EOP, Sarah A. Bianchi/OPD/EOP
cc: Michelle Crisci/WHO/EOP, Sara M. Latham/WHO/EOP
Subject: "Final"

Get transcript
He and way
off script,
but was
great.
(CJ)

PRESIDENT WILLIAM J. CLINTON
REMARKS FOR DEMOCRATIC UNITY EVENT
THE WHITE HOUSE
January 14, 1998

Acknowledge: VP Gore; Sec. Shalala; Dep. Sec. Of Labor Kitty Higgins; all the people here today concerned about the quality of health care in America.

I am very pleased that Senator Daschle, Congressman Gephardt, and the other members of Congress could be here today to help us ensure that every American family has the security it needs to thrive. I especially want to thank Congressman Dingell and Congressman Stark for their leadership on this vitally important issue.

Throughout our history, our nation's strength has come from our enduring values. And throughout our history, Democrats have helped our nation to meet our challenges by making those values real in changing times.

Today, we are proving once again that we are committed to move our country forward during a time of great change, in a fiscally responsible way that strengthens our families and expands opportunity for all our people. Since 1993 this nation has worked to put its fiscal house in order and reduce the deficit while investing in our people. When I took office, the deficit for this year was projected to be \$357 Billion, and rising. Today, it is less than \$23 Billion, on its way to zero. And as I said last week, I am committed to sending to Congress next year's balanced budget -- the first balanced budget in a generation, three years early.

And within the fiscal discipline of that balanced budget, we will continue to take strong steps to help our people equip themselves to compete and win in the global economy ... increasing work study scholarships to reach our goal of opening the doors of college to every American ... increasing access to Medicare with a program that pays for itself ... and making a comprehensive and fiscally responsible commitment to child care to help parents take responsibility at home and at work.

All of these actions are designed to help American families meet and master the

challenge of change. Today, by coming together to support to a Health Care Consumer Bill of Rights, we are taking another step toward building the kind of America we want our children to live in, in the 21st Century -- making this time of change a time of progress.

In the past five years, our health care system has changed dramatically, as millions of Americans' coverage has moved from traditional health insurance to HMOs and other new kinds of health coverage. We know that managed care has the potential to provide high quality health care at a low cost. But we also know that lowered costs can lead to lowered standards. And managed care, for all its efficiency, has the potential to leave Americans out of the process of their own health care decisions.

We have to make sure that whether they have traditional health care or managed care, every American family has quality care. In statehouses across the country, Governors of both parties have passed new laws to help protect consumers -- and I believe we can do that here in Washington, as well, working together across party lines to pass national consumer protections.

To give American families the security they need to thrive in a dynamic new economy and a rapidly changing health care system, we need a health care bill of rights that says to every American: You have a right to know that you are receiving the best care, not the cheapest care; you have the right to choose the doctor you want for the care you need; you have the right to medical services in an emergency, wherever and whenever the need arises; the right to know your medical records are confidential and only used for legitimate purposes; and you have the right to express your concerns about the quality of care you receive, and to take action when that care is inadequate. And to enforce these rights, we need federal legislation.

I look forward to working with Senator Daschle, Representative Gephardt, and the Congress to make these rights real for all Americans. This is a national goal -- it should be supported by people of all parties. I look forward to working in good faith to get this done. We are ready -- and we will work hard to make national consumer protections the law of the land.

A Health Care Consumer Bill of Rights won't expand the bureaucracy. It won't increase the deficit. But it will provide priceless peace of mind for millions of Americans. I am confident that we will meet this challenge as we have met so many others -- by working together, united in our purpose to carry our oldest values with us into a new era, bettering the lives of all Americans and preparing our nation for the 21st Century.

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Jan 27 1998 09:37:29 Via Fax

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202 225 8279 TO: REP. NORWOOD

Page 001 Of 001

COALITION FOR PATIENT CHOICE

FOR IMMEDIATE RELEASE
JANUARY 27, 1998FOR MORE INFORMATION CONTACT:
TONI TURVY / BILL CIMINO (703) 683-5004

CLINTON TO ENDORSE NORWOOD BILL IN STATE OF THE UNION

Norwood/Kennedy Bill Gives New Life to Clinton Care

WASHINGTON, DC—In the midst of a White House crisis, President Clinton will bring another crisis to Americans when he endorses the Norwood/Kennedy Bill in tonight's State of the Union address. While conservative groups and citizen organizations believed this move toward socialized medicine had been thwarted in 1994, they now have banded together once again to fight this resurrection of Clinton Care.

The Norwood Kennedy bill has the business community as well as the conservative movement up in arms. It has "drawn the ire of many conservatives who are denouncing it as a Clintonian big government plan that borders on socialized medicine" (THE WASHINGTON POST, 1/11/98). Unfortunately, Clinton has finally found a way to give his government run health care plan new breath under the guise of a Republican plan, and will unveil his plans for enactment in tonight's State of the Union address.

Republicans who have jumped on Norwood's socialized medicine bandwagon will finally learn the truth tonight when the President endorses the Norwood/Kennedy bill. Perhaps Republicans will finally see that Norwood slipped Clinton Care past them under a smokescreen and, according to the House Majority Leader Dick Army, "The president's renewed interest in health care fits a political pattern we've witnessed before. First, identify a 'crisis.' Next, highlight the crisis in the State of the Union address. Then, call on Congress to pass legislation to 'fix' the 'crisis'" (THE WALL STREET JOURNAL, 11/17/97).

As Karen Kerrigan, Coalition for Patient Choice, Chairman said "You can't be a pro-small-business conservative and be for this bill—period. Read the bill and it becomes obvious why Ted Kennedy supports it too" (OMAHA WORLD-HERALD, 1/14/98).

MEDIA AVAILABILITIES

KAREN KERRIGAN, *Chairman*, Coalition for Patient Choice and *President*, Small Business Survival Committee

DAVID LACK, *President*, Council for Affordable Health Insurance

KRISTEN ARDIZZONE, *Executive Director*, Eagle Forum

To schedule interviews with coalition spokespeople contact Toni Turvy or Sean McCabe at (703)-683-5004.

PRESIDENT CLINTON ANNOUNCES ADVISORY COMMISSION ON CONSUMER PROTECTION AND QUALITY IN THE HEALTH CARE INDUSTRY

Today, President Clinton announced the members of the Advisory Commission on Consumer Protection and Quality in the Health Care Industry. The President called on the Commission to develop a "Consumer Bill of Rights" to promote and assure patient protections and health care quality. The Advisory Commission was created through an Executive Order signed by President Clinton in September, 1996 to build on the Clinton Administration's commitment to improve the quality of the nation's health care system. The 32-member Commission will review rapid changes in the health care financing and delivery systems and make recommendations, where appropriate, on how best to preserve and improve the quality of the nation's health care system.

REPRESENTING BROAD-BASED INTERESTS AND EXPERTISE

Co-chaired by the Secretaries of Health and Human Services and Labor, the Advisory Commission has broad-based representation from consumers, businesses, labor, health care providers, insurers, and quality and financing experts. The Advisory Commission members have vast expertise on a wide range of health issues including the unique challenges facing rural and urban communities, children, women, older Americans, minorities, people with disabilities, mental illness and AIDS. There are also members with extensive backgrounds in privacy rights and ethics. Advisory Commission members come from all parts of the country and reflect America's diverse population.

FOCUSING ON CONSUMER RIGHTS AND QUALITY

The President charged the Commission with developing a "Consumer Bill of Rights" to ensure that patients have adequate appeals and grievance processes. In developing the "Consumer Bill of Rights," the Commission will study and make recommendations on consumer protections, quality, and the availability and treatment of services. Using the best research to measure real outcomes and consumer satisfaction across all providers of health care, the Commission will work to give Americans the tools they need to measure and compare health care quality. It will submit a final report by March 30, 1998. The Vice President will review the final report before it is submitted to the President. In addition, the Advisory Commission will play a consultative role should relevant legislative initiatives move through the Congress prior to the due date of the final report.

BUILDING ON THE ADMINISTRATION'S COMMITMENT TO HEALTH CARE QUALITY

The Clinton Administration has a long history of strong support for consumer protection in health plans, including executive actions and legislative initiatives barring gag rules; limiting physician incentive arrangements; increasing choice and consumer information; and requiring health plans to allow women to stay in the hospital for 48 hours after a mastectomy or after the delivery of a child. The President has called for this Commission to develop a broader understanding of the numerous issues facing a rapidly evolving health care delivery system and to help build consensus on ways to assure and improve quality health care.

A F L - C I O
F A C S I M I L E

To: Karen Tramontano
From: Gerry Shea
Pages: 6, including this cover sheet.
Date: February 13, 1998

G. Shea

From the desk of...

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Mary Kope
DISCUSSION DRAFT

**STATEMENT OF PRINCIPLES
ON THE
RESOLUTION OF CONSUMER DISPUTES
REGARDING HEALTH CARE**

**1. THE FIRST PRIORITY FOR ALL HEALTH PLANS SHOULD BE TO
MINIMIZE CONSUMER DISPUTES.**

- A. Clearly written health plan rules.
- B. Consumer assistance programs to answer questions about the health plan's rules as applied to individual consumer's circumstances. *||| v*

**2. THE SECOND PRIORITY FOR ALL HEALTH PLANS SHOULD BE
TIMELY DECISION-MAKING AND APPEALS PROCEDURES
THROUGH WHICH INAPPROPRIATE COVERAGE DECISIONS CAN BE
REVERSED BEFORE THE CONSUMER INCURS INJURY.**

- A. Plan's internal claims and appeals procedure must provide:
 - 1. generally for written decisions on claims within 30 days (including an explanation of the reasons for the decision and appeals procedures);
 - 2. generally for appeals to be decided within 30 days (including an explanation of the reasons for the decision and procedures for external appeal);
 - 3. for expedited decisions and appeals on claims involving emergency or urgent care (Medicare standard of 72 hours?);
 - 4. for medical determinations or review of medical decisions to be made or conducted by qualified medical professionals;
 - 5. for appeals to be decided by individuals not involved in the decision being appealed.

B. Plan must maintain external appeals procedure that:

*app rates
pract*
*longer than
labor Dept
is plan*

**DISCUSSION DRAFT: DISPUTE RESOLUTION
PAGE TWO**

1. applies to any decision to deny, reduce or terminate coverage or deny payment for services:
 - based on a determination that the services are not medically necessary;
 - based on a determination that the treatment is experimental or investigational in nature; or
 - where the patient's life or health is jeopardized;
 2. provides for review by independent, qualified medical professionals based on objective evidence;
 3. provides generally for timely, written decisions, and for expedited review of cases involving emergency or urgent care;
 4. is mandatory for both the plan and the consumer (i.e. the consumer cannot file a lawsuit unless he has exhausted the review process or the process is not operated as required);and
 5. does not allow the reviewers to require the plan to provide for benefits that are excluded from coverage under the terms of the plan.
- C. Failure by a plan to maintain and comply with such claims and appeals procedures would constitute a statutory violation for which the plan should be subject to civil penalties under ERISA and other federal laws.**
- D. A plan may maintain a mandatory external appeals procedure for coverage decisions beyond those types of decisions for which an external appeals procedure is required. As an incentive, plans which provide for such an expanded procedure will not be subject to certain remedies for erroneous decisions (discussed below).**
- 3. MEDICAL TREATMENT DECISIONS ARE SUBJECT TO STATE LAW REGULATION AND REMEDIES.**
- A. HMOs and their medical staffs should be held accountable under State law (e.g. professional malpractice) for denial or delay of**

DISCUSSION DRAFT: DISPUTE RESOLUTION
PAGE THREE

medically necessary treatment that results in injury to the patient just as they are held accountable for mistreatment. For example, a HMO doctor's decision that a patient's health condition does not require a specialist's care is a medical decision for which the doctor and the HMO may be liable under State law for malpractice.

malpractice

Federal preemption under ERISA, Medicare, or any other statute should not apply to treatment decisions which have been traditionally regulated by State law. ERISA's preemption provisions should be amended to clarify this limitation on the scope of preemption, even though the courts are already moving in the direction of distinguishing treatment decisions from coverage decisions.

- B. Disputes regarding treatment should not be subject to any mandatory internal or external appeals procedures.
- C. Remedies provided by State law may include the usual medical malpractice remedies for economic and non-economic injuries, subject to any State law limitations (e.g. limits on punitive damages or damages for pain and suffering).

|||

4. GENERALLY, PLAN COVERAGE DECISIONS BY ERISA-COVERED HEALTH PLANS SHOULD BE SUBJECT TO FEDERAL REGULATION AND REMEDIES. COVERAGE DECISIONS UNDER FEDERAL GOVERNMENT HEALTH PROGRAMS SHOULD BE SUBJECT TO FEDERAL REGULATION AND REMEDIES.

A. Decisions as to whether a patient is eligible for benefits under the plan and whether the plan covers a particular service or treatment—that is, whether the plan is obligated to pay for the service or treatment—are regulated under ERISA, and State regulation of such decisions is preempted, inasmuch as these decisions relate to plan administration and not to the quality of the patient's medical treatment. The plan is not deciding on the patient's medical treatment; it is deciding whether it will pay for the treatment.

* The patient may pay for the service or treatment himself, or he may have other sources of payment. The provider may be required by applicable law to provide the care regardless of whether the patient has coverage or can pay (e.g. emergency care, charity care).

**DISCUSSION DRAFT: DISPUTE RESOLUTION
PAGE FOUR**

- B.** Where the plan provides that only "medically necessary" or "non-experimental" services or treatments are covered, a denial of coverage on grounds that a particular service or treatment is not medically necessary or is experimental with respect to a patient is a coverage decision, and not a treatment decision, because the plan is deciding only to deny payment for the service or treatment.

The denial would be appealable through the plan's internal appeals procedures and to the external appeals reviewer, as described above.

- C.** After exhaustion of internal and external claims and appeals procedures, a participant or beneficiary in an ERISA-covered plan who is aggrieved by a coverage decision is entitled to bring an action in Federal or State court for the following relief:

1. enforcement of the terms of the plan; i.e. an award of the benefits to which he is entitled under the plan;
2. enforcement of statutory provisions that entitle him to coverage regardless of the terms of the plan;
3. interest on the amount of the benefits wrongly denied;
4. civil penalties, if the plan failed to maintain or properly operate the internal or external claims and appeals procedures;
5. mandatory award of reasonable attorneys fees, expert witness fees and other litigation costs to the extent that the claimant prevails; and
6. compensatory damages, if the erroneous decision was not reviewed under an external appeals procedure or if the plan has failed to comply with the decision of the external reviewer.

- D.** Participants and beneficiaries in Federal Government health programs (e.g. Medicare, FEHBA) should be entitled to the same dispute resolution rights and remedies as participants and beneficiaries in ERISA-covered plans.

*What do
they mean?*

DISCUSSION DRAFT: DISPUTE RESOLUTION
PAGE FIVE

5. THE LABOR DEPARTMENT SHOULD HAVE THE POWER TO IMPOSE SUPERVISION OVER ERISA-COVERED PLANS WHERE THERE IS EVIDENCE OF A PATTERN OF FIDUCIARY MISCONDUCT WITH RESPECT TO COVERAGE DECISIONS. OTHER FEDERAL AGENCIES WITH REGULATORY AUTHORITY OVER FEDERAL HEALTH PROGRAMS SHOULD HAVE SIMILAR AUTHORITY WITH RESPECT TO PLANS IN THOSE PROGRAMS.

A. ERISA currently grants the Labor Department broad authority to investigate possible violations of that law (including the fiduciary standards) as well as authority to bring lawsuits in Federal court to enforce statutory requirements and standards and to enjoin or remedy violations of those requirements and standards. [ERISA Sections 502(a), 504]. If necessary, ERISA should be amended to clarify that the Department initiate expedited proceedings in Federal court to obtain a preliminary order placing a plan under the Department's supervision upon a showing of evidence that plan fiduciaries have engaged or are engaging in a pattern of misconduct with respect to coverage decisions.

Quality File**STUDIES ESTIMATING THE COST OF CONSUMER PROTECTIONS****I. STUDY BY MILLIMAN AND ROBERTSONS -- unclear who Commissioned this.**

- This is a study which estimates that PARCA could cost increase premium costs between 7 percent and 39 percent.
- You should note that many of the "rights" assessed -- such as mandatory POS, and equivalent reimbursement rates in and out of network -- are not things we support.
- In other areas they are misinterpreting PARCA -- for example, they interpret "no inducement to reduce services" to mean no risk sharing arrangements or capitation. Whereas the description they provide "*no specific payment is made directly or indirectly under the plan to a professional or provider or group of professionals or providers as an inducement to reduce or limit medically necessary services*" sounds more like no financial incentives to doctors.

PARCA Provisions	Best Estimate Range	Range of Premium Increase To Enrollees
Emergency Room Services	0.5%	0%-4%
Elimination of Prior Authorization for Speciality Referrals (access to specialists)	0.2%	0%-3%
No inducement to reduce services*	2%-17%	0%-50%
Mandatory point-of-service option	0.3%	0%-3%
Equivalent Reimbursement Rates In and Out of Network**	0%-11%	0%-35%
Onerous Administrative Requirements***	1%-3%	1%-5%
Elimination of Certain Benefits****	1%-10%	1%-10%
Adverse Selection Against Rate Increases	4.5%	1%-20%
Composite Effects	7%-39%	3%-90%

* Meaning no financial incentives to reduce or limit medically necessary services.

** As you know, this is one of the provider protections we strongly disagree with.

*** They mean by this all of the record keeping and information disclosure and preauthorization requirements

**** They say no discrimination of providers -- could be interpreted to mean a health plan might have to cover every service.

II. STUDY BY BARENT'S -- prepared for AAHP

- This survey states upfront that they estimate that managed care plans currently save 30% in costs and that PPOs and PSOs reduce costs by about 14%. They then compute how much each of the provisions would reduce these savings.
- They are not explicitly assessing Norwood, but rather some of the provisions that have been passed in states.
- The most expensive provision is the freedom of choice provision -- which they claim could undermine the ability of managed care to save costs. Again, they seem to be thinking of this as an "any willing provider" type provision that would undermine all of managed care - which I do not we support.

Benefits	Percent It Would Reduce Premium Savings
Mandatory POS	11%
Direct Access and Freedom of Choice	14%
Establishment and Maintenance of Health Care Provider Networks	5%
Prohibition of Physician Incentive Payments	3% to 5%
Restrictions on Utilization Review	3% to 5%
Care Delivered in Emergency Rooms	1% to 3%
Expanded Health Plan Liability	4%
Net Costs	9% increase in costs to FFS**

** this is very unclear -- they say that if "laws were enacted that eliminated most of managed care plans' ability to control costs -- (presumably although not explicitly stated if all of these provisions were enacted), annual premiums for traditional indemnity plans would be \$500 (increase over \$6500) more than if managed care plans would continue to attain these savings" (because currently managed care plan premiums serve to keep FFS plan premiums lower).

LEWIN STUDY -- conducted for the Quality Commission

Per the Commission's request, this study assessed two of the "rights" that are thought to potentially have the most costs associated with them.

Information Disclosure. Lewin estimates that this provision would cost between \$0.59 to \$2.17 per person per month in the first year (of course, upfront costs would be the most expensive so the three to five year phase in costs would be \$0.59 to \$1.10 per month -- with the midpoint at \$0.84 per month).

External Appeals. Estimated costs would be only \$0.003 to \$.07 per person per month.

Some Objectionable Provider Provisions in Norwood

- Allows all health professionals and providers in a service area to apply to become a participating provider at least one period in each calendar year. Provide reasonable notice about the chosen period.
- Have to select health professionals and providers based on an objective standards of quality -- developed with the suggestion and advice of professional associations, health professionals, and providers and make these selection available to every health professionals and providers.
- Rights of Providers Who Are Turned Down
 - (1) Plan has to notify any health professional or provider of any information indicating why they failed to meet the standards of the issuer.
 - (2) Gives those who are turned down the opportunity to review the information and discuss all information on which the determination is based.
 - (3) Allows the health professional or providers to submit supplemental or corrected action plan.
 - (4) Provides a due process appeal for all determinations that are adverse to the health professional or provider.

(We think they should only have to notify)
- Plans cannot include in the contract a provision which permits the issuer to terminate the contract "without cause"

These provisions would impose excessive, costly burdens on health plans and would make it extremely difficult for health plans to keep any providers and health professionals out of their network. It also gives those providers and health professionals who are excluded much more cause for legal action against health plans. They can say they do meet the objective standards and they have submitted a corrective action plan demonstrating how -- etc. etc. Does not allow plans to limit the number of specialists if they have a sufficient amount if others can demonstrate that they meet criteria.

Chris -- I think there may a few other problematic provisions -- i.e I think it does not allow different rates for out-of-network providers -- I will have to double check in the morning.

PRESIDENT CLINTON'S REMARKS AT HEALTH CARE EVENT
Holiday Park Senior Center Gymnasium, Wheaton, Maryland
Friday, February 20, 1998

Today, President Clinton will attend a health care event at the Holiday Park Senior Center Gymnasium where he will highlight the President's leadership in bringing Federal Government health plans into compliance with the Health Care Consumer Bill of Rights ("Patient Bill of Rights" - *see attached sheet*). President Clinton is committed to making sure every American is afforded these rights.

The President will be making remarks to approximately 150 senior citizens, representatives from health care groups, and federal employees at the Holiday Park Center. The center serves on a daily basis approximately 500 Montgomery County residents over 55 years old. The center provides a multitude of services, including: educational programs, recreational activities, well-being and physical fitness, and a computer training program. The center is particularly strong in its health programs, which it provides in partnership with the Washington Hospital Center. Screening for blood pressure, diabetes, prostate cancer are some of the services provided.

The President will be accompanied by Beth Layton, Dian Bower, and Marty Wish. Beth Layton is Vice Chair of the Holiday Park Advisory Council. Dian Bower is a military spouse who also served 13 years in the military. She has recently suffered a brain tumor but is being treated successfully. Marty Wish is an active member of the Holiday Park Community, whose son was denied emergency room care. He served for 39 years for the Department of Veterans Affairs as the Deputy Director of Personnel. When he retired from the VA in 1980, he served as Chair of the Montgomery County on Aging and later, as President of the National Association of Retired Federal Employees.

Vice President Gore will present a report to the President that shows that all of the Federal health programs, including Medicare, Medicaid, Indian Health Service, the Federal Employee Health Benefits Program, the Department of Defense Military Health Program, and the Veterans' Health Program are or will be in compliance with the Patient Bill of Rights. Because the Federal health plans are already largely in compliance their experience illustrates that implementing consumer protections to help Americans navigate a changing health care system, can be done without excessive costs or regulations.

The President will then sign an Executive Memorandum. (*See attached fact sheet*)

Order of Speakers:

Beth Layton
Dian Bower
Marty Wish
Vice President Gore
President Clinton

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**PRESIDENT CLINTON ISSUES DIRECTIVE AIMED AT ENSURING THAT
FEDERAL HEALTH PLANS COME INTO COMPLIANCE WITH THE
“PATIENTS’ BILL OF RIGHTS”**

February 20, 1998

Today, the President is issuing an Executive Memorandum directing all Federal health plans, which serve over 85 million Americans, to come into substantial compliance with the President’s Quality Commission’s Consumer Bill of Rights (“Patients’ Bill of Rights”). The Executive Memorandum follows a report that the Vice President forwarded to the President on the current status of compliance with the Consumer Bill of Rights. The President is also re-issuing his challenge to Congress to pass legislation that ensures that a patients’ bill of rights will become the law of the land for all Americans. Today, the President is:

ANNOUNCING THAT THE NATION’S FEDERAL HEALTH PROGRAMS ARE LEADERS IN PROVIDING PATIENT PROTECTIONS. Today, the President accepted and praised the Vice President’s report on the compliance status of Federal health programs with the Consumer Bill of Rights, including Medicare, Medicaid, Indian Health Service, the Federal Employee Health Benefits Program, the Department of Defense Military Health Program, and the Veteran’s Health Program. Although citing shortcomings, the report concludes that Federal health plans are already largely in compliance. This finding illustrates that implementing consumer protections to help Americans navigate through a changing health care system, can be and has been done without excessive costs or regulations.

ISSUING AN EXECUTIVE MEMORANDUM TO ENSURE THAT THESE FEDERAL AGENCIES COME INTO SUBSTANTIAL COMPLIANCE WITH THE CONSUMER BILL OF RIGHTS. While the Federal government is taking a leading role to ensure consumer protections are in place, the Vice President’s report concluded it has the authority to do more. Today, the President is issuing an Executive Memorandum to ensure that Federal programs come into substantial compliance with the Consumer Bill of Rights by no later than next year. His executive action:

- ✓ **Directs HHS to Take Administrative Actions to Ensure that Medicare Comes into Compliance with Rights, Including Access to Specialists, by Next Year.** Medicare is largely in compliance with the Consumer Bill of Rights. However, Medicare currently does not ensure access to specialists and adequate levels of participation in treatment decisions. The President is directing HHS to issue administrative actions in these and other areas by no later than next year to bring Medicare, which serves over 38 million older Americans and people with disabilities, substantially into compliance.

- ✓ **Directs HHS to Take Administrative Actions to Ensure Greater Compliance for Medicaid, Including Access to Specialists, by Next Year.** HHS has also determined that there are appropriate administrative actions it could take to ensure that the Medicaid program, which serves 36 million Americans, comes into substantial compliance with all of the major elements of the Consumer Bill of Rights. The President is also directing the Department to issue directives to bring Medicaid into substantial compliance by no later than next year.

- ✓ **Directs HHS to Notify States Immediately that Emergency Room Services Are Covered Under Medicaid.** The President is directing the Department to send a letter to State Medicaid directors to clarify that States are required to cover emergency room services consistent with the recommendations of the Consumer Bill of Rights.
- ✓ **Directs the Federal Employees Health Benefits Program (FEHBP) to Ensure 350 Participating Carriers Come into Compliance with the Consumer Bill of Rights by Next Year.** The President is directing Office of Personnel Management (OPM), which manages FEHBP and its 9 million enrollees, to notify all 350 participating carriers that they must come into compliance with the Consumer Bill of Rights, particularly with regard to access to specialists, continuity of care, and access to emergency room services. He also is directing OPM to work with each participating carrier to ensure they come into full compliance with the Consumer Bill of Rights by the end of next year. OPM issues a call letter each March which sets forth FEHB Program and policy changes. To meet the President's directive, this year's letter will specifically address new expectations for participating carriers in areas such as: access to specialists, continuity of care, disclosure of financial incentives, and access to emergency room services.
- ✓ **Directs OPM to Publish New Regulations Prohibiting "Gag Clauses."** The President is directing OPM to publish a regulation in the next three months to ensure that gag clauses, which restrict physician-patient communications about medically necessary treatment options, not be a part of any provider agreement that includes FEHBP enrollees. These new actions build on OPM's existing consumer protections, including an internal and external appeals process and information disclosure rights.
- ✓ **Directs the Department of Defense (DoD) to Come into Compliance Through A Series of Policy Directives and Contractual Modifications.** The President is directing DoD, which serves 6 million Americans to: (1) establish a strong grievance and appeal process for beneficiaries who have been denied services by managed care companies that are in contract with the Military Health System; (2) issue a directive to promote greater use of providers who have specialized training in women's health issues to serve as primary care managers for female beneficiaries; and (3) issue a directive to ensure that all patients in the military health system can fully discuss all treatments options, including prohibiting "anti-gag" clauses. These actions, to be completed by this fall, will bring the Military Health System into substantial compliance with the Consumer Bill of Rights.
- ✓ **Directs Veterans' Health Programs to Come into Compliance with the Consumer Bill of Rights Through a Series of Policy Initiatives.** The President is directing the VA, which serves 3 million veterans, to use its administrative authority to ensure that an internal and external appeals process is in place and to issue a new directive to ensure that VA consumers meet the information disclosure recommendations in the Consumer Bill of Rights. The VA already assures many protections, such as access to specialists. This new action will bring the VA system into virtual compliance with the Consumer Bill of Rights.

- ✓ **Directs the Department of Labor to Use Its Limited Authority to Ensure Adequate Information Disclosure and a Stronger Internal Appeals Process.** The Department of Labor is responsible for the administration and enforcement of the Employee Retirement Income Security Act (ERISA) which governs approximately 2.5 million private sector health plans that cover about 125 million Americans. Labor has extremely limited authority to ensure that these plans can come into compliance. Understanding this fact, the President is directing Labor to take action, by no later than this spring, to propose regulations to protect consumers by: (1) improving information disclosure rights; and (2) strengthening the internal appeals process for all ERISA plans, to ensure that decisions regarding urgent care are resolved within 72 hours and generally resolved within 15 days for non-urgent care.

RE-ISSUING CHALLENGE TO CONGRESS TO PASS FEDERALLY-ENFORCEABLE PATIENTS' BILL OF RIGHTS THIS YEAR. Today, the President renewed his call to Congress to pass a patients' bill of rights this year. The Department of Labor's report underscores that most consumer protections cannot be ensured to patients in private health plans without additional legislation. This legislation will ensure that the millions of Americans who are in private health plans will be protected, too.

RELEASING HHS CONSUMER SURVEY TO EMPOWER MEDICARE BENEFICIARIES TO MAKE INFORMED CHOICES. Today, the Consumer Assessment Health Plans Survey (CAHPS) is being released by HHS. This survey seeks information on how easily beneficiaries can access specialists, emergency care services, and the general level of consumer satisfaction. Survey results, which will provide extensive information about all Medicare managed care plans currently up and running, will be sent to every Medicare beneficiary this fall, helping them to make much-better informed choices about their health plan options.

PATIENT BILL OF RIGHTS AND RESPONSIBILITIES

The Patient Bill of Rights consists of the following rights and responsibilities:

- (1) **Access to Accurate, Easily Understood Information** about consumers' health plans, facilities and professionals to assist them in making informed health care decisions;
- (2) **Choice of Health Care Providers** that is sufficient to assure access to appropriate high quality care. This right includes assuring consumers with complex or serious medical conditions access to specialists, giving women access to qualified providers to cover routine women's health services, and providing access to continuity of care for consumers who are undergoing a course of treatment for a chronic or disabling condition;
- (3) **Access to Emergency Services** when and where the need arises. This provision requires health plans to cover these services in situations where a "prudent lay person" could reasonably expect that the absence of care could place their health in serious jeopardy;
- (4) **Participation in Treatment Decisions** including requiring providers to disclose any incentives, financial or otherwise --that might influence their decisions, and prohibits "gag clauses" which restrict health care providers' ability to communicate with and advise patients about medically necessary options;
- (5) **Assurance that Patients are Respected and Not Discriminated Against**, including discrimination in the delivery of health care services consistent with the benefits covered in their policy based on race, gender, ethnicity, mental or physical disability, and sexual orientation;
- (6) **Confidentiality** which assures that individually identifiable medical information is not disseminated and that also provides consumers the right to review, copy and request amendments to their own medical records;
- (7) **Grievance and Appeals Processes** for consumers to resolve their differences with their health plans and health care providers --including an internal and external appeals process; and
- (8) **Consumer Responsibilities** which asks consumers to take responsibility by maximizing healthy habits, becoming involved in health care decisions, carrying out agreed-upon treatment plans, reporting fraud, among others.

THE WHITE HOUSE

WASHINGTON

February 20, 1998

MEMORANDUM FOR THE SECRETARY OF DEFENSE
THE SECRETARY OF LABOR
THE SECRETARY OF HEALTH AND HUMAN SERVICES
THE SECRETARY OF VETERANS AFFAIRS
THE DIRECTOR OF THE OFFICE OF PERSONNEL
MANAGEMENT

SUBJECT: Federal Agency Compliance with the Patient Bill
of Rights

Last November, I directed you to review the health care programs you administer and/or oversee and report to me on the level and adequacy of the patient protections they provide. Specifically, I asked you to advise me on the extent to which those programs are in compliance with the Health Care Consumer Bill of Rights (the "Patient Bill of Rights") recommended by the Advisory Commission on Consumer Protection and Quality in the Health Care Industry ("the Quality Commission").

Yesterday, you formally conveyed your reports to me through Vice President Gore. He advises me that each of your agencies is well on its way toward full compliance with the patient protections recommended by the Quality Commission. By doing so, your agencies will serve as strong models for health plans in the private sector.

Under your leadership, we are showing that it is possible and desirable to ensure that patients have the tools they need to navigate through an increasingly complex health care delivery system. We are showing that common sense solutions for all too common problems in our health systems are the right prescription not only for beneficiaries of Federally administered programs, but for our private sector colleagues as well. Your efforts illustrate that patient protections can be accomplished without excessive costs or regulations.

While the news is encouraging, your reports also indicate that we have not completed the job. Although Federal health programs are taking a leading role in providing protections to patients, your report indicates we have the regulatory and administrative authority to come into substantial compliance with the Patient Bill of Rights, and I believe that this should be one of my Administration's highest priorities.

Therefore, I hereby direct you to take the following actions consistent with the missions of your agencies to come into compliance with the Patient Bill of Rights.

The Secretary of Health and Human Services shall:

- take all appropriate administrative actions to ensure that the Medicare and Medicaid programs come into substantial compliance with the Patient Bill of Rights, including access to specialists and improved participation in treatment decisions, by no later than December 1999; and
- notify all State Medicaid directors that emergency room care protections should be consistent with the Patient Bill of Rights.

The Director of the Office of Personnel Management shall:

- ensure that all 350 Federal Employees Health Benefits Plan (FEHBP) participating carriers come into contractual compliance with the Patient Bill of Rights, particularly with regard to access to specialists, continuity of care, and access to emergency room services by no later than December 31, 1999; and
- with respect to participating carriers, propose regulations to prohibit, within 90 days, practices that restrict physician-patient communications about medically necessary treatment options.

The Secretary of Veterans Affairs shall:

- take the necessary administrative action to ensure that a sufficient appeals process is in place throughout the Veteran's Health System by September 30, 1998; and
- issue a policy directive to ensure that beneficiaries in the Veteran's Health System are provided information consistent with the Patient Bill of Rights by September 30, 1998.

The Secretary of Defense shall:

- establish a strong grievance and appeals process consistent with the Patient Bill of Rights throughout the military health system by September 30, 1998;
- issue a policy directive to promote greater use, within the military health system, of providers who have specialized training in women's health issues to serve as primary care managers for female beneficiaries and to ensure access to specialists for beneficiaries with chronic medical conditions by September 30, 1998; and
- issue a policy directive to ensure that all patients in the military health system can fully discuss all treatment options. This includes requiring disclosure of financial incentives to physicians and prohibiting "gag clauses" by September 30, 1998.

The Secretary of Labor shall:

- propose regulations to strengthen the internal appeals process for all Employee Retirement Income Security Act (ERISA) health plans to ensure that decisions regarding urgent care are resolved within 72 hours and generally resolved within 15 days for non-urgent care; and
 - propose regulations that require ERISA health plans to ensure the information they provide to plan participants is consistent with the Patient Bill of Rights.
- X

**PRESIDENT CLINTON RELEASES DIRECTIVES AIMED AT ASSURING THAT
FEDERAL HEALTH PLANS COME INTO COMPLIANCE WITH THE
PATIENTS' BILL OF RIGHTS**

February 20, 1998

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- ✓ **Directs HHS to Take Administrative Actions to Ensure That Medicare Comes Into Compliance With Rights, Including Access to Specialists, By Next Year.** Medicare is largely in compliance with the Consumer Bill of Rights. However, Medicare currently does not assure access to specialists and adequate levels of participation in treatment decisions. The President is directing HHS to issue administrative actions in these and other areas by no later than next year to bring Medicare, which serves over 38 million older Americans and people with disabilities, substantially into compliance.

- ✓ **Directs HHS to Take Administrative Actions to Assure Greater Compliance for Medicaid, Including Access to Specialists, by Next Year.** HHS has also determined that there are appropriate administrative actions it could take to ensure that the Medicaid program, which serves 36 million Americans, comes into substantial compliance with all of the major elements of the Consumer Bill of Rights. The President is also directing the Department to issue directives to bring Medicaid into substantial compliance by no later than next year.

- ✓ **Directs HHS to Immediately Notify States That Emergency Room Services Are Covered Under Medicaid.** The President is directing the Department to send a letter to State Medicaid directors to clarify that States are required to cover emergency room services consistent with the recommendations of the Consumer Bill of Rights.
- ✓ **Directs the Federal Employees Health Benefits Program (FEHBP) to Ensure 350 Participating Carriers Come Into Compliance With the Consumer Bill of Rights by Next Year.** The President is directing Office of Personnel Management (OPM), which manages FEHBP and its 9 million enrollees, to notify all 350 participating carriers that they must come into compliance with the Consumer Bill of Rights, particularly with regard to access to specialists, continuity of care, access to emergency room services. He also is directing OPM to work with each participating carrier to ensure they come into full compliance with the Consumer Bill of Rights by the end of next year. OPM issues a call letter each March which sets forth FEHB Program and policy changes. To meet the President's directive, this year's letter will specifically address new expectations for participating carriers in areas such as, access to specialists, continuity of care, disclosure of financial incentives, and access to emergency room services.
- ✓ **Directs OPM to Publish New Regulations Prohibiting "Gag Clauses."** The President is directing OPM to publish a regulation in the next three months to ensure that gag clauses, which restrict physician-patient communications about medically necessary treatment options, not be a part of any provider agreement that includes FEHBP enrollees. These new actions build on OPM's existing consumer protections, including an internal and external appeals process and information disclosure rights.
- ✓ **Directs the Department of Defense (DoD) to Come Into Compliance Through A Series of Policy Directives and Contractual Modifications.** The President is directing DoD, which serves 6 million Americans to: (1) establish a strong grievance and appeal process for beneficiaries who have been denied services by managed care companies that are in contract with the Military Health System; (2) to issue a directive to promote greater use of providers who have specialized training in women's health issues to serve as primary care managers for female beneficiaries; and (3) to issue a directive to ensure that all patients in the military health system can fully discuss all treatments options, including prohibiting "anti-gag" clauses. These actions, to be completed by this fall, will bring the Military Health System into substantial compliance with the Consumer Bill of Rights.
- ✓ **Directs Veteran's Health Programs To Come Into Compliance With the Consumer Bill of Rights Through a Series of Policy Initiatives.** The President is directing the VA, which serves 3 million veterans, to use its administrative authority to ensure that an internal and external appeals process is in place and to issue a new directive to ensure that VA consumers meet the information disclosure recommendations in the Consumer Bill of Rights. The VA already assures many protections, such as access to specialists. This new action will bring the VA system into virtual compliance with the Consumer Bill of Rights.

- ✓ **Directs the Department of Labor to Use Its Limited Authority to Assure Adequate Information Disclosure and A Stronger Internal Appeals Process.** DoL is responsible for the administration and enforcement of the Employee Retirement Income Security Act (ERISA) which governs approximately 2.5 million private sector health plans, that cover about 125 million Americans. DoL has extremely limited authority to ensure that these plans can come into compliance. Understanding this fact, the President is directing DoL to take action, by no later than this spring, to propose regulations to protect consumers by: (1) improving information disclosure rights; and (2) strengthening the internal appeals process for all ERISA plans, to ensure that decisions regarding urgent care are resolved within not more than 72 hours and generally resolved within 15 days for non-urgent care.

RE-ISSUES CHALLENGE TO CONGRESS TO PASS FEDERALLY-ENFORCEABLE PATIENTS' BILL OF RIGHTS THIS YEAR. Today, the President renewed his call to Congress to pass a patients bill of rights this year. The Department of Labor's report underscores that most consumer protections cannot be assured to patients in private health plans without additional legislation. Without this legislation, the millions of Americans in private health plans will never be assured these protections.

RELEASES HHS CONSUMER SURVEY TO EMPOWER MEDICARE BENEFICIARIES TO MAKE INFORMED CHOICES. Today, the Consumer Assessment Health Plans Survey (CAHPS) is being released by HHS. This survey asks about how easily beneficiaries can access specialists, emergency care services, and seeks information on the general level of consumer satisfaction. Survey results, which will provide extensive information about all Medicare managed care plans currently up and running, will be sent to every Medicare beneficiary this fall, helping them make much-better informed choices about their health plan options.

PRESIDENT WILLIAM J. CLINTON
REMARKS FOR
PATIENTS' BILL OF RIGHTS EVENT
WHEATON, MARYLAND

February 20, 1998

Acknowledgments: VP Gore; Sec. Shalala; Sec. Herman; Lieutenant Governor Kathleen Kennedy Townsend; President of the County Council Isaiah Leggett; Beth Layton, Vice Chair, Holiday Park Advisory Council; And I want to thank Dian Bower and Marty Wish for reminding us why we are working so hard to give the American people a Patients' Bill of Rights.

I am very pleased to accept this report from the Vice President -- and very proud to learn how close we are to making sure that every federal health plan complies with the Patients' Bill of Rights. Today, I am directing all federal agencies to finish the job by taking the necessary steps laid out in this report.

I want all of you to think about what this really means and how many people's lives it will affect. With all the authority of the federal government, we are ensuring that a third of all Americans -- that's every person on Medicare, every federal employee, including millions of military personnel, veterans, and all of their families, every child or person with a disability on Medicaid -- are protected by a Patients' Bill of Rights that says just this. You have the right to know all your medical options, not just the cheapest ... the right to choose a specialist for the care you need ... the right to emergency room care, wherever and whenever you need it ... the right to keep your medical records confidential ...

... and the right to bring a formal grievance or appeal a health care decision you disagree with. And we are proving that we can make these rights real for those nearly 90 million Americans without burdening the system, increasing the deficit, or unfairly costing consumers.

With this step, we are setting a standard for the nation. But we must not stop here. Now, the Congress must pass federally-enforceable legislation act to protect all Americans with a Patients' Bill of Rights. And I look forward to working together to give the American people the security they deserve.

The Patients' Bill of Rights is in keeping with our oldest obligations to our parents, to our children, to the neediest and most vulnerable among us. It is in keeping with our oldest ideals, enshrined in America's Bill of Rights. And it is an essential part of our efforts to strengthen our nation for the 21st Century.

The Vice President talked about some of the ways we have tried to increase the quality, affordability, and accessibility of health care. We have ensured that Americans will not lose their health insurance when they change jobs or when a family member falls ill.

The balanced budget agreement I signed into law last year extends the Medicare Trust Fund until 2010. And it contains an unprecedented \$24 Billion to extend health care coverage to up to 5 million uninsured children. Just this week I directed federal agencies with programs with children to do everything they can to enroll as many of those children as possible.

The Patients' Bill of Rights is the next important step we must take to ensure that every American family has the quality health care it needs to thrive. This is especially important as our health care system changes to meet the needs of an emerging new economy.

I believe that we have an obligation to give Americans the tools to meet these challenges -- and to make sure that whether they have traditional care or managed care, all Americans have quality care.

Thirty-five years ago, President Kennedy proposed a Consumer Bill of Rights to protect Americans from unsafe products, saying that “we share an obligation to protect the common interest in every decision we make.” Those rights are still protecting us today -- every time we rent a car or use a credit card or buy a toy from a child. And the rights we are helping to establish with the Patients’ Bill of Rights will be there to protect our children and our grandchildren -- every time they need it.

And now, I will sign the Executive Memorandum to ensure a Patients' Bill of Rights for nearly 90 million Americans.

Current Proposal

Jennings S

POSSIBLE NEW LANGUAGE RE CLINICAL TRIALS TO RESPOND TO CONCERNS

(d) **Approved clinical trial defined.** --In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved and funded (*Including funding in the form of in-kind contributions*) by one or more of the following and, in the case of the entities defined in subparagraphs (3), (4), and (5), reviewed and approved by a system of peer review determined by the Secretary to be comparable to the system of peer review of such studies and investigations used by the National Institutes of Health : ...

(5) **A public or private nonprofit organizations that the Secretary . . . certifies meets the standards of this section.**